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HARVARD LAW REVIEW.

Published monthly, during the Academic Year, by Harvard Law Students.

SUBSCRIPTION PRICE, \$2.50 PER ANNUM 35 CENTS PER NUMBER.

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THE MEANING OF "LEGISLATURE" IN THE FEDERAL CONSTITUTION.—In the federal Constitution, exclusive of amendments, the word "Legislature" (or its plural) occurs altogether thirteen times; in ten different connections, always meaning the state legislature. The question suggests itself whether the term is used in its popular sense of the periodical representative assembly, or in the sense of the law-making power, which may include (1) the constitutional convention, (2) the governor, (3) under a system of initiative and referendum, all the voters. In the provision for protection against domestic violence "on Application of the Legislature," it may be argued that the term cannot include the governor, for it is followed by the words "or of the Executive (when the Legislature cannot be convened)." ¹ In the provision that the electors of Congressmen "shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature," ² the term cannot include all the voters, for they are not elected. It appears, from the context, that all the voters would not be included under the clause as to taking an oath to support the Constitution. ³ The same thing may be said of the section providing for election of United States Senators, ⁴ for all the voters do not take a "Recess", nor do they assemble in "Meeting."

Of the powers given to the "Legislature," some are really legislative and some are not; and herein, it is submitted, lies the true solution of the problem. As to the former, "Legislature" means the law-making power of the state. The provisions that the manner of electing Senators and Representatives ⁵ and of appointing Presidential Electors ⁶ may be prescribed in each state by the legislature, are in this class. Hence a

¹ U. S. CONST., Art. IV, sec. 4.

² U. S. CONST., Art. I, sec. 2, § 1.

³ U. S. CONST., Art. VI, § 3.

⁴ U. S. CONST., Art. I, sec. 3.

⁵ U. S. CONST., Art. I, sec. 4, § 1.

⁶ U. S. CONST., Art. II, sec. 1, § 2.

provision of the state constitution as to the manner of electing Congressmen cannot be overridden by an act of the assembly.⁷ This may be supported on the theory either that the constitution-making body is included in "Legislature," or that members of the assembly acting contrary to the state constitution are not included in that term. The members of the assembly in joint convention cannot pass a rule that a mere plurality of the joint meeting shall elect a United States Senator;⁸ only the Legislature acting through its two branches separately is competent to enact such a law. It has recently been held that an act of the assembly establishing Congressional districts is not effective until there is a compliance with a provision of the state constitution for a compulsory referendum on petition of a certain number of voters. *State ex rel. Schrader v. Polley*, 127 N. W. 848 (S. D.). On the same reasoning the governor might veto such an act, if the organic law of the state gives him a veto on legislation.

But where the Constitution vests other than law-making powers in certain persons designated as the "Legislature," that word should be taken in its popular sense. A joint convention of the members of the legislature may elect a Senator.⁹ The right to apply for a convention to propose amendments to the federal Constitution¹⁰ is clearly not legislative; thus the early applications for a constitutional convention by the Virginia (1788) and New York (1789) legislatures were not signed by the governors.¹¹ It is more doubtful in which class the power of ratifying such amendments belongs but the gubernatorial approval seems not to have been deemed necessary. The ratification of the Fourteenth Amendment was formally approved by governors of only fifteen states.¹² No instance is known in which the ratification was vetoed. In New Jersey, the governor vetoed the attempted rescission of ratification and it was passed over his veto.¹³ The consent of the legislature to the formation of new states out of the territory of old ones¹⁴ and to the purchase of sites for forts, etc.¹⁵ must also be taken as belonging to this latter class.

THE MEANING OF "ACCIDENT" IN PERSONAL ACCIDENT AND EMPLOYERS' LIABILITY INSURANCE. — Most personal accident insurance policies cover "injuries effected through external, violent, and accidental means." While the courts have given little effect to the words "external"

⁷ This question has arisen several times in connection with contested seats in the House of Representatives. The reports of the committee of elections and action by the House are neither uniform nor clear; but it must be confessed that authority is pretty evenly divided. See *Shiel v. Thayer*, 1 Bartlett, Contested Election Cases, 349; *Baldwin v. Trowbridge*, 2 *id.* 46; *Donnelly v. Washburn*, 1 Ellsworth, Contested Election Cases, 439.

⁸ John P. Stockton, Taft, Senate Election Cases 264.

⁹ *Fitch and Bright v. Lane and McCarty*, Taft, Senate Election Cases 164.

¹⁰ U. S. CONST., Art. V.

¹¹ See 1 AM. STATE PAPERS (MISC.) 6, 7. Many but not all of the more recent applications have been formally approved by the governors, see 42 CONG. RECORD 5514.

¹² See 2D SESS., 40TH CONG., 2 SEN. EXEC. DOCS. No. 75; 6 RICHARDSON, MESSAGES AND PAPERS OF THE PRESIDENTS, 657-660.

¹³ See FLACK, ADOPTION OF THE FOURTEENTH AMENDMENT, 167.

¹⁴ U. S. CONST., Art. IV, sec. 3, § 1.

¹⁵ U. S. CONST., Art. I, sec. 8, § 17.